

FILED
AUG 22 2011
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Alphonse Persico and Angela Clemente

#1 Reg. # 05577-054 ~~ES~~
USP Florence - High PO Box 7000
Florence CO. 81226
886 S. Broadway
Rensville, NJ 08070

Plaintiff,

Civil Action No. _____

US DEPARTMENT OF JUSTICE

and

FEDERAL BUREAU OF PRISONS

Case: 1:11-cv-01512

Assigned To : Leon, Richard J.

Assign. Date : 8/22/2011

Description: FOIA/Privacy Act

Defendants

COMPLAINT FOR INJUNCTIVE RELIEF
[Freedom of Information Act, 5 U.S.C. § 552]

JURISDICTION AND PARTIES

1. Plaintiffs Alphonse Persico ("Persico") and Angela Clemente ("Clemente") bring this action under the Freedom of Information Act ("the FOIA"), 5 U.S.C. § 552, as amended.
2. Plaintiff Persico is an individual who is serving a life sentence at the United States Penitentiary ("USP") Florence- High in Florence, Colorado. On June 29, 2009 the United States

District Court for the Eastern District of New York ordered the Bureau of Prisons to re-evaluate and re-designate defendant Persico closer to the New York Metropolitan Area where his family resides. In response, the Designation and Sentence Computation Center Staff re-evaluated and affirmed its decision to re-designate Persico to USP Atwater in California at tax payer's expense despite the court's strong recommendations. Moreover, in October 2010 Persico was further re-designated to USP Florence-High (Colorado), a higher security facility. Persico is now seeking all records relevant to the above and other multiple re-designations as outlined in Exhibit 1 attached hereto.

3. Clemente is a well-known Forensic-Intelligence Analyst and authority on organized crime who is assisting Persico in obtaining the records requested in Exhibit 1.
4. Defendant UNITED STATES DEPARTMENT OF JUSTICE ("DOJ") is an agency of the United States and has possession and control of records requested by Persico and Clemente which are the subject of this action.
5. Defendant FEDERAL BUREAU OF PRISONS ("FBOP") is a component of the United States Department of Justice and has possession and control of records requested by the plaintiffs which are the subject of this action.
6. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 because this action arises under the laws of the United States, in particular, 5 U.S.C. § 552.
7. Venue is proper in this District pursuant to 5 U.S.C. § 552 (a)(4)(B) because the agencies are located in Washington DC.

CAUSE OF ACTION

8. Plaintiffs re-allege the allegations set forth in paragraphs 1-6 above.

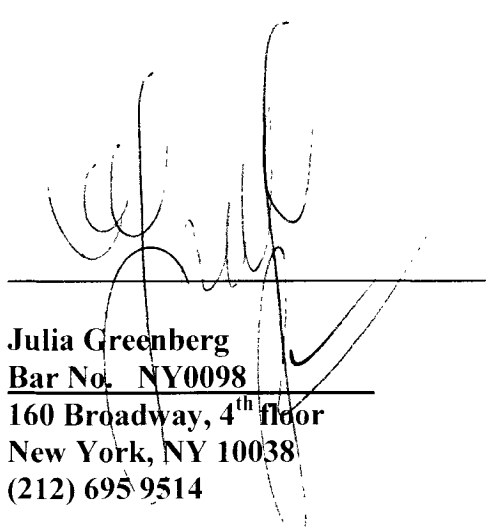
9. By letter dated February 16, 2011, plaintiffs submitted a request to the FBOP for records pertaining to Persico's re-designation to different facilities contrary to the Court's recommendation to keep him closer to his family. See Exhibit 1.
10. By letter dated March 11, 2011, the FBOP acknowledged receipt of Plaintiffs' request and assigned it FOIA No. 11-4672. See Exhibit 2.
11. Subsequently, by letter dated July 16th, 2011 Plaintiff's counsel wrote a courtesy letter asking FBOP to provide the Records within a 30-day time frame. See Exhibit 3.
12. No further correspondence has been exchanged with the FBOP.
13. Plaintiffs have exhausted their administrative remedies pursuant to 5 U.S.C. § 552 (a)(6)(C).
14. Plaintiffs have a right under the FOIA to obtain the information they seek and there is no legal basis for defendants' denial of that right.

WHEREFORE, Plaintiffs pray that this Court:

- (1) order defendants to make the requested information promptly available to it;
- (2) order defendant's to conduct a thorough search for all responsive records at all relevant instrumentalities;
- (3) order defendants to provide plaintiff a Vaughn index inventorying all responsive records and itemizing and justifying all withholdings;
- (4) expedite this action in every way pursuant to 5 U.S.C. §552 and 28 U.S.C. §1657(x);
- (5) award plaintiff reasonable costs and attorney's fees as provided in 5 U.S.C. § 552 (a) (4) (E) and/or 28 U.S.C. § 2412 (d); and

(8) grant such other and further relief as the Court may deem just and proper.

DATED: August 16 2011



Julia Greenberg
Bar No. NY0098
160 Broadway, 4th floor
New York, NY 10038
(212) 695 9514

Counsel for Plaintiffs

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EXHIBIT 1

ANGELA CLEMENTE & ASSOCIATES

11 Lotus Ave Suite A Woodstown, NJ 08098

*Telephone 347-884-4917

*aclemente_forensics@gmail.com

February 16, 2011

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a, I request the following records:

All records pertaining to Mr. Alphonse Persico which relates to the following:

- 1) The Re-designation of Mr. Alphonse Persico from FCI Fairton to USP Atwater March-June 2009
- 2) The re-evaluation/re-designation ordered by Judge Seybert June- September 2009
- 3) The first attempt by Atwater Unit Team/Administration to re-designate Mr. Alphonse Persico January- March 2010
- 4) The re-designation by Atwater Unit Team/Administration submitted on October 1, 2010 and approved on October 27/28th for re-designation to USP Florence-High (Colorado).

Attached is a copy of the Certificate of Identity giving authorization for our office to obtain these records on behalf of our client.

Respectfully Submitted,

Angela Clemente
Forensic Intelligence Analyst/
Congressional Consultant

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EXHIBIT 2



**U.S. Department of Justice
Federal Bureau of Prisons**

North Central Regional Office

*Tower II, 8th Floor
400 State Street
Kansas City, KS 66101-2421*

March 11, 2011

Angela Clemente
11 Lotus Avenue, Suite A
Woodstown, NJ 08098

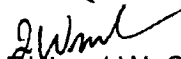
RE: Freedom of Information Act/Privacy Act Request Number: 11-4672
Alphonse Persico

Dear Requestor:

This acknowledges our receipt of your Freedom of Information Act (FOIA) request. Pursuant to Title 28 C.F.R. Part 16.3, the filing of a FOIA/PA request is considered an agreement by you to pay all applicable fees charged under § 16.11, up to \$25.00. Regulations that may be pertinent to your request may be found at Title 28 C.F.R. Parts 16 and 513.

We have examined your request and have determined that the documents responsive to your request must be searched for and collected from a field office. As a result, the amount of time necessary to respond to your request will increase. Once responsive documents have been collected from the field, we will process your request in the order that it was received.

Sincerely,


Richard W. Schott
Regional Counsel

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EXHIBIT 3

Law Offices of Julia Greenberg

Attorneys at Law

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New York, NY 10038
(212) 695-9514
Fax (212) 937-3904

350 Fifth Avenue, Suite 4400
New York, New York 10038
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June 16, 2011

Richard W. Schott
Regional Counsel
U.S. Department of Justice
Federal Bureau of Prisons
Tower 11, 8th Floor
400 State Street
Kansas City, Kansas 66101-2421

RE: Request for Records- Freedom of Information Act/Privacy Act Request Number: 11-4672 Alphonse Persico Reg. No. 05517-054

Dear Mr. Schott:

Please be advised that I represent Angela Clemente and Alphonse Persico, who submitted a FOIA request on February 16, 2011, which seeks U.S. Department of Justice Bureau of Prison records (attached hereto).

On behalf of Angela Clemente and Alphonse Persico, I wish to herewith advise you that unless the documents requested are received by this office within thirty days of your receipt of this letter, we shall have no alternative but to take immediate legal action to the US District Court, for the District of Columbia.

If we are to enforce my clients' legal rights in court we will also sue you for attorney's fees.

This matter demands your immediate attention.

Sincerely,

Julia Greenberg

